

ESTTA Tracking number: **ESTTA619061**

Filing date: **08/01/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91216381
Party	Defendant Eunjoo K Egghart
Correspondence Address	ERIC O HAUGEN JACOBSON BUFFALO MAGNUSON ANDERSON & HOGEN PC 335 ATRIUM IFC BUILDING, 1295 BANDANA BLVD N ST PAUL, MN 55108 UNITED STATES haugenmail@haugenlaw.com, jfh@jacobsonbu
Submission	Answer
Filer's Name	Eric O. Haugen
Filer's e-mail	haugenmail@haugenlaw.com
Signature	/Eric O. Haugen/
Date	08/01/2014
Attachments	ANSWER TO OPPOSITION 91216381.pdf(42507 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Egghart & Associates, LLC,	)	In the matter of Application
	)	Serial No. 85/595,982
Opposer,	)	
	)	For the mark: EJ EGGHART
	)	
vs.	)	Filed: April 12, 2012
	)	
Eunjoo K. Egghart,	)	Published on February 4, 2014
Applicant.	)	
_____	)	

BOX TRADEMARK TRIAL AND APPEAL BOARD  
COMMISSIONER FOR TRADEMARKS  
P.O. BOX 1451  
ALEXANDRIA VA 22313-1451

In response to the Notice of Opposition filed by Egghart & Associates, LLC on May 13, 2014, applicant, Eunjoo K. Egghart, answers as follows:

**GENERAL DENIAL**

The Applicant hereby denies each and every allegation herein that is not specifically admitted, denied or qualified.

**ANSWER TO OPPOSITION**

The Applicant answers the Opposer's allegations, in like numbered paragraphs, as follows:

1. With regard to Paragraph 1 of the Opposition, Applicant is without knowledge and information to form a belief as to the truth of the allegations that is sufficient to admit or deny the same and so denies each and every allegation therein.

2. With regard to Paragraph 2 of the Opposition, the Applicant denies the allegations and asserts that the Opposer is not the owner of the EGGHART mark, which is owned by and is the last name and professional reputational identifier of the Applicant, and further asserts that the EGGHART mark was used by the Applicant during the time period identified in the instant Opposition and long before the Opposer existed as a legal entity.

3. With regard to allegations in Paragraph 3, the Applicant is without knowledge and information to form a belief as to the truth of the allegations, and so denies the same. The Applicant further asserts that the Opposer is not the owner of the EGGHART mark, which is owned by and is the last name and professional reputational identifier of the Applicant.

4. The allegations in Paragraph 4 constitute a legal conclusion that is not subject to admission or denial and so the same are denied. The Applicant further asserts that the allegations in Paragraph 4 constitute claims that the Opposer has lodged in litigation now pending before the courts of the state of Nevada, which claims remain at issue and unresolved and, for that reason as well, they are denied.

5. Applicant admits that the records of the United States Patent and Trademark Office correctly indicate that Applicant filed an application to register its EJ EGGHART service mark on April 12, 2012, that its service mark covers “educational services, namely, conducting seminars in the field of accounting, auditing, and technology and distribution of educational materials in connection therewith in International Class 41”, and that its mark was published on February 4, 2014.

6. The allegations in Paragraph 6 constitute a legal conclusion that is not subject to admission or denial, and the same are hereby denied.

7. As to the allegations in Paragraph 7, the Applicant admits that the Opposer's mark is confusingly similar to the mark owned by the Applicant, that the Opposer's use of the EGGHART mark is wrongful and without the permission or consent of the Applicant, that such use has and continues to cause harm and damage to the Applicant, and that the ownership of the EGGHART mark is the subject of pending state court litigation in Nevada. The remaining allegations in Paragraph 7 constitute legal conclusions that are not subject to admission or denial and the same are denied.

8. Applicant denies the allegation in Paragraph 8.

9. Applicant denies the allegations in Paragraph 9.

### **AFFIRMATIVE DEFENSES**

A. The Opposer is not, and was not at the time of the filing of this Opposition, the rightful owner of the EGGHART mark.

B. The Opposer's purported mark consists of or comprises the name of a particular living individual – the Applicant – and is being used without the Applicant's consent.

C. The Applicant's use of the Mark has generated significant goodwill among the consuming public and consumer acceptance of the services offered by Applicant in conjunction with the Mark. Such goodwill and widespread usage has caused the Mark to acquire distinctiveness with respect to Applicant and caused the Mark to become a valuable asset of the Applicant.

D. The Applicant has been using the Mark and developing consumer recognition and goodwill therein since at least January 1, 2008, such use being open, notorious and known to Opposer and such knowledge, in turn, being known to Applicant. During this time, Opposer

failed to take meaningful action to assert the claims on which it bases this Opposition, on which inaction the Applicant has relied to its detriment, thus the Opposer's claims are barred by the doctrines of laches, acquiescence and estoppel.

E. The Opposer has unclean hands by virtue of measures taken by Opposer to wrongfully exercise control over the EGGHART mark in violation of the Applicant's ownership rights, and has engaged in concerted and coordinated activities designed to create confusion in the marketplace, and wrongfully to barter on the Applicant's professional reputation in the fields of accounting, auditing and training in these areas.

WHEREFORE, Applicant requests that this Opposition be denied in its entirety, and that its EJ EGGHART mark be passed on to registration at this time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. 14' or similar, with a horizontal line extending to the left.

Date: August 1, 2014

Eric O. Haugen, Of Counsel  
THE JACOBSON LAW GROUP  
[haugenmail@haugenlaw.com](mailto:haugenmail@haugenlaw.com)  
Joseph F. Halloran  
[jhalloran@thejacobsonlawgroup.com](mailto:jhalloran@thejacobsonlawgroup.com)  
335 Atrium Office Building  
1295 Bandana Boulevard  
St. Paul, MN 55108  
Phone: (651) 644-4710

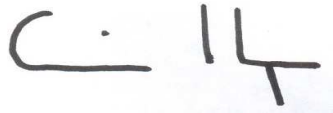
Joseph F. Halloran  
THE JACOBSON LAW GROUP  
[jhalloran@thejacobsonlawgroup.com](mailto:jhalloran@thejacobsonlawgroup.com)  
335 Atrium Office Building  
1295 Bandana Boulevard  
Saint Paul, Minnesota 55108  
Phone: (651) 644-4710  
Fax: (651) 644-5904

Attorneys for Applicant  
Eunjoo K. Egghart

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing ANSWER TO OPPOSITION was served on counsel for Egghart & Associates, LLC, Ian Burns, ATIP Law, 4790 Caughlin Parkway #701, Reno, Nevada 89519, via U.S. Mail, postage pre-paid on August 1, 2014.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "C. 14" or similar, written over a light blue rectangular background.

Date: August 1, 2014

THE JACOBSON LAW GROUP  
Eric O. Haugen, Of Counsel  
[haugenmail@haugenlaw.com](mailto:haugenmail@haugenlaw.com)  
Joseph F. Halloran  
[jhalloran@thejacobsonlawgroup.com](mailto:jhalloran@thejacobsonlawgroup.com)  
335 Atrium Office Building  
1295 Bandana Boulevard  
St. Paul, MN 55108  
Phone: (651) 644-4710

Attorneys for Applicant  
Eunjoo K. Egghart